

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 134 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

H.R.JOSHI

Versus

CHANDUBHAI D. BOSAMIAY

Appearance:

MR KH BAXI for Petitioner
Respondent No. 1 absent though duly served
MR ST MEHTA, APP for Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 01/12/2000

C A V JUDGEMENT

This is a Criminal Revision Application under
Section 397 of the Criminal Procedure Code (for short
'Cr.P.C.') filed by original complainant of Criminal Case

No.402/89 which is still pending on the file of the learned Judicial Magistrate, First Class, Jetpur, District Rajkot, (for short 'the learned Magistrate'), challenging legality, correctness and propriety of order dated 16.1.1990 passed by the learned Magistrate below Application Exh.4 presented by the complainant seeking an order under Sec.33 of the Water (Prevention and Control of Pollution) Act, 1974, (same will be referred to as 'the Act' for brevity) for restraining the accused for that case alleging that accused is likely to cause pollution within the meaning of Sec.2(e) of the Act. By that order which is challenged in this application the learned Magistrate was pleased to reject the said application Exh.4 presented by the complainant in the aforesaid case.

2. Here in this Criminal Revision Application, the applicant is the complainant whereas the opponent No.1 is an accused in aforesaid case and, therefore, parties will be referred to as the 'complainant' and 'accused' respectively at appropriate places.

3. The facts leading to this Criminal Revision Application in a nutshell are as follows:

3.1 As per main complaint Exh.1 lodged in the Court of learned Magistrate on 4.4.89, the complainant is an Assistant Law Officer in the Regional Office of Gujarat Pollution Control Board (for short 'Board') which is constituted under Sec.4 of the Act. As per Sec.15 of the Act read with Sec.21 of Indian Penal Code, the complainant is a public servant within the meaning of Sec.21 of the IPC. The aforesaid complaint has been filed for and on behalf of the Board by the complainant. The Chairman of the Board has accorded a sanction on 8.1.89, authorising the complainant to lodge the complaint against accused.

3.2 As per the complaint, accused in aforesaid Criminal Case No.402/89 is Shri Chandubhai D. Bosamiya, who is a Proprietor and Owner of factory named Binni Prints situated in town Jetpur. Accused is carrying on business of printing sarees by making use of colour, silicate and chemicals. It is the case of the prosecution that before starting such business of printing of sarees, the accused is required to obtain a previous consent of the State Board as per Sec.25 of the Act. Alongwith that previous consent of the State Board accused is also required to obtain a permission under Sec.26 of the Act for discharging trade effluent which is defined within the meaning of Sec.2(k) of the Act. It is

a specific case of the prosecution that accused has not obtained such permission for discharging trade-effluent from his factory, and thereby, accused has contravened the provision of Sec.26 of the Act and that contravention is punishable under Secs.44 and 47 of the Act.

3.3 It is the case of the prosecution that subject to the provisions of Sec.24 of the Act, no person shall knowingly cause or permit any poisonous, noxious or polluting water determined in accordance with such standard as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or in lane. Therefore, it is also the case of the prosecution that accused has also contravened the provision of Sec.24 of the Act which is punishable under Sec.43 of the Act.

3.4 As per the complaint, on or about 20.8.88, one Shri P.J.Vachhani, who is an Assistant Environmental Engineer of the State Board and Shri K.I.Kareliya, who is a Junior Scientific Assistant of the State Board, paid a visit to the factory of accused. Before paying visit to said factory, accused was, by letter dated 20.8.88, given a notice of entry and inspection and for receipt of such notice, said Officers had obtained signature of accused. Thereafter, on that very day, accused was, by another letter, informed that said officers wanted to take a sample of trade effluent and for that another letter also signature of accused was taken. Thereafter, said officers who paid visit to factory of accused collected a sample of trade effluent which was being discharged from the factory. At the time of taking sample, accused was being questioned as to whether he wanted to see that two samples of trade effluent are taken or not. Accused by writing informed that officers that he was not willing to see that two samples are taken by the officers. Thereafter, after following due procedure, the said officers collected a sample of trade effluent. That sample was sent by Mr.P.J.Vachhani by his letter dated 29.8.88 to Analyst of State Board. At the time of taking sample, inspection report was prepared wherein signature of accused was taken.

3.5 On making analyses of sample of trade effluent sent by Mr.P.J.Vacchani, the Analyst of the Board sent his report in his covering letter dated.3.10.88. That report of Analyst has been attached as schedule 'A' with the complaint, and thus, looking to that report of Analyst, the water which was being discharged from the factory of accused was a polluted water and thus accused has contravened the provisions of Sec.24 of the Act. On

receipt of report from the Laboratory, that report was sent to Head Office of the Board at Gandhinagar, and in turn, the Head Office of the Board at Gandhinagar sent report of laboratory to accused by Registered Post A.D. It is a specific case of the prosecution that though accused has received a copy of report of Analyst, he has not stopped discharging polluted water from his factory. Thereafter, the Chairman of the Board, after examining necessary documents and on making application of mind ultimately accorded a sanction to lodge a complaint against accused by his letter dtd.8.1.89. As stated in Para 6 of the complaint Exh.1, the accused has contravened the provisions of Secs.24, 25 and 26 of the Act which are punishable under Secs. 43, 44 and 47 of the Act. On receipt of that sanction, the complainant lodged his complaint against accused for said offences in the Court of the learned Magistrate on 4.4.89. The learned Magistrate, in exercise of his powers conferred upon him under Sec.204 of Cr.P.C., took a cognizance against accused for said offences and issued summons against accused.

4. On the very day, on which the complainant lodged his complaint in the Court of learned Magistrate, he submitted one application Exh.4 under Sec.33 of the Act to the Court of learned Magistrate and requested the Court of learned Magistrate to pass an order in the form of interim injunction restraining accused from discharging polluted water from the factory. On that day the learned Magistrate ordered to issue show-cause-notice returnable on 21.4.89 against accused. It appears from record that accused appeared through his advocate Shri R.R.Trivedi and submitted written reply Exh.8, in reply to aforesaid application Exh.4. He has taken all sorts of technical disputes and denied the entire case of complainant for seeking an order under Sec.33 of the Act. The learned Magistrate, after hearing the arguments of learned advocates for both the parties, passed an order dtd.16.1.90 and rejected an application of complainant seeking an interim injunction restraining accused from discharging polluted water from the factory. As against that order dtd.16.1.90 passed by the learned Magistrate below application Exh.4, which was submitted under Sec.33 of the Act by the complainant, the original complainant has preferred this Criminal Revision Application.

5. I have heard Shri K.H.Baxi, learned advocate for the applicant and Shri S.T.Mehta, learned APP for the Opponent No.2, who has supported the case of the applicant. The Opponent No.1 i.e. original accused of the case has not appeared before this Court though duly

served with the Rule of this Court. I have also examined the Record and Proceedings of the Criminal Case No.402 of 1989 called for from the Court of the learned Magistrate and have perused all relevant documents produced in the case.

6. Shri K.H.Baxi, learned advocate for the applicant has argued that an order which has been sought for by the complainant by presenting application Exh.4 is practically an interim injunction order restraining accused from discharging polluted water from the factory on the open land. He has further argued that principles of law which can be made applicable to an interim application can also be made applicable to application Exh.33 of the Act, but, at the same time, no provisions of Order 39 Rule 1 and 2 of the CPC can strictly be made applicable. He has further argued that to obtain an interim injunction, the person seeking an order has to satisfy the Court for his prima facie case and also for ingredients of balance of convenience and irreparable injury which may be caused, if injunction is not granted.

6.1 Shri Baxi, learned advocate for the applicant has argued that, an impugned order of the learned Magistrate by which an application Exh.4 submitted under Sec.33 of the Act has been rejected, is an illegal, incorrect and improper order and, therefore, to set right that illegality, the complainant has preferred this present Criminal Revision Application.

6.2 At the request of Mr. Baxi, Record and Proceedings of the case have been called for and by referring a schedule 'A' attached with the complaint and about nine documents produced with list Exh.3, he has argued that complainant has successfully made out his case for obtaining an order under Sec.33 of the Act. He has argued that the learned Magistrate has not taken any care of the said documents before passing an order of rejection below application Exh.4 and, therefore, the order is required to be set aside and simultaneously this Court is further requested to grant an interim injunction as prayed for in para 9(1) of application Exh.4 operative against accused, till final decision in aforesaid Criminal Case No.402/89.

7. Before contentions of Shri K.H.Baxi are taken into consideration, it is necessary to know as to what are the important ingredients of Sec.33 of the Act. Sec.33 of the Act reads as follows:

"33. Power of Board to make application to

courts restraining apprehended pollution of water
n streams or wells :-

- (1) Where it is apprehended by a Board that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in any sewer or any land, or otherwise, the Board may make an application to a Court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing.
- (2) On receipt of an application under sub-section (1) the Court may make such order as it deems fit.
- (3) Where under sub-section (2) the Court makes an order restraining any person from polluting the water in any stream or well, it may in that order, -
 - (i) direct the person who is likely to cause or has caused the pollution of the water in the stream or well, to desist from taking such action as is likely to cause pollution or, as the case may be, to remove from such stream or well, such matter, and
 - (ii) authorize the Board, if the direction under Cl. (i) (being a direction for the removal of any matter from such stream or well), is not complied with by the person to whom such direction is issued, to undertake the removal and disposal of the matter in such manner as may be specified by the Court.
- (4) All expenses incurred by the Board in removing any matter in pursuance of the authorization under Cl.(ii) of sub-section (3) or in the disposal of any such matter may be defrayed out of any money obtained by the Board from such disposal and any balance outstanding shall be recoverable from the person concerned as arrears of land revenue or of public demand."

7.1 It would be in the interest of justice to know

the statement of objects and reasons underlying the Act before Sec.33 of the Act is taken for making itself clear to the present case. The statement of objects and reasons underline the Act reads as under:

"The problem of pollution of rivers and streams has assumed considerable importance and urgency in recent years as a result of the growth of industries and the increasing tendency to urbanization. It is, therefore, essential to ensure that the domestic and industrial effluents are not allowed to be discharged into the water courses without adequate treatment as such discharges would render the water unsuitable as source of drinking water as well as supporting fish life and for use in irrigation. Pollution of rivers and streams also causes increasing damage to the country's economy."

8. Shri Baxi has cited an authority of GUJARAT WATER POLLUTION CONTROL BOARD Vs. M/S. KOHINOOR DYEING AND PRINTING WORKS & ORS. reported in 1993 (2), 34(2) GLR 1368. In this case necessary ingredients of Sec. 33 are discussed. In Para 6.4 (Page 1379) it has been observed as under:

"In fact, the bare reading of the said Sec.33 clearly projects the following picture, whereby -

- (i) by virtue of sub-sec(1) of Sec. 33, it empowers the Board to make application to the specified Courts for restraining apprehended pollution of water in streams and wells;
- (ii) by virtue of sub-sec.(2) of Sec.33 it vests discretionary powers in specified Courts to pass appropriate orders as it deems fit and proper; and
- (iii) by virtue of clause (i) of sub-sec.(3) of Sec.33, on application being made by the Pollution Control Board, the specified Court can direct the person who is likely to cause or has caused the pollution of water in stream and/or well to desist from taking such action as it is likely to cause pollution, etc."

8.1 Shri Baxi has drawn an attention of this Court to Sec.25 of the Act. Sec.25 of the Act restricts new outlets and new discharges. In view of Sec.25 of the Act subject to the provisions of Sec.25 no person shall

without the previous consent of the State Board, -

- (a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or
- (b) bring into use any new or altered outlet for the discharge of sewage; or
- (c) begin to make any new discharge of sewage:

8.2 So before making any outlet for the discharge of sewage, one has to obtain a sanction from the State Board for which a procedure has been prescribed in sub-secs. 2, 3 and 4 of Sec.25 of the Act. If someone wants to establish or take any steps to establish any industry, operation of process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land or bring into use any new or altered outlet for the discharge of sewage or begin to make any new discharge of sewage then he has to make an application under sub-sec.2 of Sec.25 of the Act to the State Board and, thereafter, as per sub-sec.4 of Sec.25 of the Act the State Board may take a decision on the application submitted under Sec.25(2) of the ACT. As per Clause (a) of sub-sec.4 of Sec.25 of the Act, the State Board may grant its consent referred to in sub-sec.1 of Sec.25 of the Act and, while granting such consent, the State Board may impose certain conditions stated in sub-secs.(i) (ii) (iii) of Clause (a) of sub-sec.4 of Sec.25 of the Act. The State Board can also refuse such consent under Clause (b) of sub-sec.4 of Sec.25 of the Act, but, while refusing such consent, the State board is required to record reasons in writing and therefore complete procedure is prescribed if someone wants to discharge polluted water from his industry. If someone discharges polluted water by contravening Sec.25 of the ACT then that contravention is punishable under Sec.44 of the Act. Sec.27 is directly connected with sub-sec.4 of Sec.25 of the Act. Sec.26 deals with discharge of sewage or trade effluent before the commencement of the Act.

8.3 As per Para 4 of the complaint, it came to the notice of the Officers of the State Board and its regional office that accused is discharging trade

effluent within the meaning of Clause (k) of Sec.2 of the Act from his factory which he runs in the name of "Binni Prints" in town Jetpur and, therefore, the Assistant Environmental Engineer and Junior Scientific Assistant both employees of State Board visited the said factory on 20.8.88 and found that accused was discharging trade effluent on the land outside his factory and, therefore, Sec.26 of the Act is not applicable to the present case. Shri Baxi has argued that when a restriction is imposed under Sec.25 of the Act that no person shall without the previous consent of the State Board discharge trade effluent into a stream or well or sewer or on land then it is the case of the complainant that accused has contravened Sec.25 of the Act and that contravention is punishable under Sec.44 of the Act.

8.4 Shri Baxi has argued that in view of Sec.33 of the Act, if the State Board apprehends that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in any sewer or on any land then the Board may make an application to the court not inferior to the Metropolitan Magistrate or a Judicial Magistrate of the First Class, for restraining the person who is likely to cause such pollution from so causing. If the State Board makes an application under sub-sec.1 of Sec.33 of the Act to the Judicial Magistrate First Class then that Magistrate may make such order as it deems fit, by exercising the powers conferred upon him under sub-sec.2 of Sec.33 of the Act. Sub-sec.3 of Sec.33 of the Act authorises the said Magistrate as to what type of orders can be passed by him under sub-sec.2 of Sec.33 of the Act. Clause (i) of sub-sec.3 of Sec.33 of the Act authorises the learned Magistrate to direct the person who is likely to cause or has caused the pollution of the water in the stream or well, to desist from taking such action as is likely to cause pollution or, as the case may be, to remove from such stream or well, such matter. If that person fails to comply with the direction given in Clause (i) of sub-sec.3 of Sec.33 of the Act then that Magistrate can authorise the Board to undertake the removal and disposal of the matter in such manner as the case may be specified by the court. If that person fails to comply with the directions given in Clause (i) of sub-sec.3 of Sec.33 of the Act then sub-sec.4 of Sec.33 authorises the State Board to recover the amount of expenses incurred for removal and disposal of the matter causing pollution and that recovery can be made by the State Board as arrears of land revenue or of a public demand and, therefore, Sec.33 of the Act is a special section which gives special right special remedy and

special powers to the court and, therefore, it is a self-contained section itself independent of other provisions of the Act. This Sec.33 comes into operation only on the basis of the ingredients provided there in namely apprehension of the pollution likely cause by any person.

8.5 Shri Baxi has by reading Para 6.3 of the aforesaid authority of G.W.P.C.B. Vs. Kohinoor D&P Works (Supra) argued that on reading statement of objects and reasons of the Act together with Sec.2(e) of the Act which speaks for pollution and the object underlying in Sec.33 clearly stand out as the light house to guide the law enforcing agency and the Courts of law while dealing with the cases under the Pollution Act. He has further argued that on close examination of Sec.33 of the Act, it clearly appears that the Parliament in its uppermost anxiety and concern for the protection of health, life and well being of the people, animals, plants and even of aquatic organisms in the flora and fauna of the country from even the apprehended pollution, in its highest wisdom has engrafted this special provision with a view to provide urgent and emergent remedy so as to immediately prevent and make desist the defaulting units from causing pollution by discharging the effluent water in stream or river. He has further argued that Parliament was quite conscious of the fact that if such rough and ready, urgent and instantaneous, urgent and preventive measures like the one as provided in Sec.33 were not prescribed, then in that case, the way in which the cases in the Criminal Courts get lingered on, piled-up and protracted, the ultimate object of enacting the special Act as that of stopping the water pollution would stand totally frustrated despite the fact that the Act specially came to be enacted for the said purpose only.

9. Here in this case, the accused appeared before the learned Magistrate and he submitted his written reply Exh.8, which he filed in reply to application Exh.4 under Sec.33 of the Act. It is the contention of accused which has been taken in reply Exh.8 that application under Sec.33 is premature. It is further contended by accused that, before passing any order under Sec.33 of the Act, some evidence is required to be recorded by the learned Magistrate. One of the contentions of accused was to the effect that complainant has not produced documents to show prima facie that accused is an owner of Binni Prints and that polluted water is being discharged from Binni Prints. He has also taken such technical dispute with regard to maintainability of the complaint lodged by the

complainant and also with regard to validity of sanction accorded to complainant to lodge the complaint. It may be noted that this written reply Exh.8 is filed under the signature of learned advocate for accused who appeared before the Court of the learned Magistrate. It is neither signed nor verified by the accused under due verification. No affidavit is filed in support of written reply Exh.8. As against this, the complainant has filed his application Exh.4 supported with his due verification which he has described as an affidavit on Page 5 of said application Exh.4, though that verification is titled as affidavit. No officer authorising under the oaths Act appears to have given oath to the complainant and that no officer administering oath has put his endorsement and therefore to my mind this is nothing but an application submitted under due verification. The learned Magistrate has narrated these facts in brief with regard to contents of said application Exh.4 in Para 1 of his impugned order. He has stated in brief the contentions taken by accused in Para 2 of his impugned order. In first part of Para 4 of impugned order, the learned Magistrate has noted down the arguments advanced by Mr.N.M.Shinroja who appeared as learned advocate for complainant and Mr.Trivedi who appeared as advocate for accused before him. If we read later part of para 3 of impugned order, we find that learned Magistrate has rejected application mainly on following four grounds:

- (1) The Officers who visited the factory of accused have not filed affidavits and therefore as observed by him the State Board cannot be said to have been apprehended that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in sewer or any lane. He has observed that to show such apprehension, an affidavit of either of visiting officers is necessary.
- (2) No documents is produced to show prima facie that accused is an owner of said factory.
- (3) Inspection report was filled in with particulars on the basis of information given by accused.
- (4) There is no prima facie evidence from side of complainant to show that case of complainant attracts his discretionary powers under Order 39 Rules 1 and 2 of CPC read with inherent powers

under Sec.151 of CPC.

9.1 On the basis of aforesaid grounds, the learned Magistrate has come to a conclusion that there is no prima facie cogent evidence for passing an order under Sec.33 of the Act and thereby he has rejected that application Exh.4.

10. Shri Baxi has argued that in view of legal position with regard to Sec.33 of the Act for which he has argued earlier and as held by this Court in case of GWPCB Vs. Kohinoor (Supra), Sec.33 is a special section which gives special right, special remedy and special powers to the court and therefore it is a self-contained section itself independent to any other provision of the Act and, therefore, question does not arise for complainant to produce evidence which requires to be produced for an order of interim injunction as required to be produced under Order 39 Rules 1 and 2 CPC.

10.1 Application Exh.4 has been submitted in a criminal case and therefore provisions with regard to CPC are not applicable to application Exh.4. He has argued that complainant has narrated all the facts with regard to visit of responsible officers of State Board paid to factory of Binni Prints at Jetpur. The complaint is filed alongwith certain documents referred to in that complaint. That documents are produced with list Exh.3. That documents were very much there before the learned Magistrate and that documents were produced for consideration before passing order below application Exh.4. It may be noted that accused has neither denied any facts stated in duly verified application Exh.4 by filing his written reply under verification nor has he filed any affidavit in support of his Written Reply Exh.8 and therefore the contents in application Exh.4 reveal a prima facie case for complainant to obtain an order under Sec.33 of the Act. At this juncture, documents produced with list Exh.3 were required to be taken into consideration by the learned Magistrate. Mark 3/1 is a copy of notice of inspection given under Sec.23 of the Act to the accused. Mark 3/2 is a copy of letter given under Sec.21(3)(a) of the Act to M/s. Binni Prints. Mark 3/3 is a letter given by accused to the officers who paid visit to the factory. In this letter Mark.3/3 name of proprietor is mentioned as Chandulal Dwarkadas Bosamiya who is joined as accused in this case. He has signed that letter Mark.3/3 as proprietor of M/s.Binni Prints and therefore the learned Magistrate has grossly erred in not considering this letter Mark.3/3 on the point that accused is a proprietor of M/s.Binni Prints.

Mark. 3/4 is a copy of inspection report wherein it is stated that Chandulal Bosamiya is a proprietor of M/s.Binni Prints. Mark. 3/7 is a report of State Board Analyst who analysed the sample of alleged effluent water which was being discharged from the factory of accused outside on the land. Mark. 3/8 is a copy of letter addressed to M/s.Binni Prints with which a copy of report of analyst had been sent. Mark.3/9 is a Sanction accorded to the complainant to prosecute the accused by lodging the complaint in Court. Thus there was an ample material on record to come to a conclusion that there were every reasons for State Board to apprehend that accused was discharging trade effluent within the meaning of Sec.2(k) of the Act, on the open land, outside the factory and therefore the State Board has made an application as per sub-sec.1 of Sec.33 of the Act. In absence of any written reply under verification duly verified or affidavit of accused all the materials produced by the complainant were prima facie sufficient to attract the provision of Sec.33 of the Act. The learned Magistrate has overlooked all the materials produced with list Exh.3. It appears that the learned Magistrate was weighed with a wrong impression that applicant was required to make out his case for an interim injunction as required by the plaintiff in the suit as per Order 39 Rule 1 and 2 of CPC. Looking to legal position with regard to Sec.33 of the Act discussed hereinabove, provisions of CPC cannot be made strictly applicable to the present case. At the best principles of natural justice should be followed before passing an order. Therefore, on the face of it, an impugned order challenged in this Criminal Revision Application can be said to be incorrect and improper. When adequate materials were there to attract Sec.33 of the Act, the learned Magistrate has, in stead of considering the documents produced with list Exh.3, found fault with the complainant and thereby he has come to a conclusion which, in no case, can be said to be a legal, correct or proper.

11. In view of discussions made hereinabove, by keeping in mind the statement of objects and reasons underlying the Act and also the importance of Sec.33 in the Act, this Court is of the view that learned Magistrate has seriously erred in law by rejecting application Exh.4 of the complainant. The factors taken into consideration by the learned Magistrate cannot be said to be legal and proper and, therefore, that order of rejection of application Exh.4 is bad in law and it requires to be set aside by substituting the order of

this Court.

12. In view of what is stated hereinabove, this Criminal Revision Application deserves to be allowed and impugned order is required to be set aside. Accordingly, an impugned order dated 16th January, 1990, passed by the learned J.M.F.C. Jetpur (District Rajkot) below application Exh.4 submitted under Sec.33 of the Water (Prevention and Control of Pollution) Act, 1974, by the complainant in Criminal Case No.402 of 1989 is set aside. This Court directs under Sec.33(3) of the aforesaid Act, the accused who is a proprietor of Binni Prints situated in Navagadh GIDC, Jetpur, to desist from discharging all types of trade effluent within the meaning of Sec.2(k) of the Act, from his said factory, on land outside his factory with further direction to remove and dispose of the such matter of trade effluent which has already been discharged from his factory on the land outside his factory within two months from date of receipt of writ of this Court. As this matter has arisen from Criminal Case No.402 of 1989, the learned JMFC Jetpur is directed to expedite the trial and dispose of the case within three months from the date of receipt of writ of this Court. Compliance report be sent by him to this Court. Rule is made absolute to the aforesaid extent.

(H.H. Mehta, J.)

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